

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

MUNTASSER ALSPINI,

Plaintiff,

v.

TRANSAMERICA LIFE INSURANCE
COMPANY,

Defendant.

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Case No. _____

NOTICE OF REMOVAL

In accordance with 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Transamerica Life Insurance Company ("Transamerica") hereby removes this action from the 327th Judicial District Court of El Paso County, Texas, to the United States District Court for the Western District of Texas, El Paso Division.

STATE COURT ACTION

1. On November 20, 2020, Plaintiff Muntasser Alspini ("Plaintiff") filed an action numbered 2021DCV3447 in the 327th Judicial District Court of El Paso County, Texas, against Transamerica for breach of an accidental death and dismemberment insurance policy providing coverage in the amount of at least \$90,000.

2. Plaintiff seeks to recover the policy benefits, plus attorneys' fees, costs of court, and interest.

3. Plaintiff served Transamerica with process on October 5, 2021.

4. Transamerica has filed an answer in the state court action denying all of the claims and material facts alleged in Plaintiff's original petition.

GROUND FOR REMOVAL

5. Transamerica may remove this action to this Court under 28 U.S.C. §§ 1332 and 1441 because it is a civil action (a) between citizens of different states, where none of the parties in interest properly joined and served as defendants is a citizen of the state in which the action was brought (i.e., Texas); and (b) where the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

Diversity of Citizenship

6. There is complete diversity of citizenship between Plaintiff and Transamerica, and Transamerica is not a citizen of Texas.

7. A natural person is considered to be a citizen of the state where that person is domiciled—that is, where the person has a fixed residence with the intent to remain there indefinitely. *See Preston v. Tenet Healthsystem Mem'l Med. Ctr., Inc.*, 485 F.3d 793, 797 (5th Cir. 2007). A corporation is considered to be a citizen of the state in which it has been incorporated and the state where it has its principal place of business. 28 U.S.C. § 1332(c)(1).

8. Plaintiff, a natural person, alleges that he is a permanent resident of El Paso County, Texas, and is therefore a citizen of Texas.

9. Transamerica is an Iowa corporation with its principal place of business in Cedar Rapids, Iowa, and is therefore a citizen of Iowa.

Amount in Controversy

10. The amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

11. In assessing the amount in controversy, a court should consider the plaintiff's pleadings and the notice of removal and apply "common sense." *Chapman v. Powermatic, Inc.*, 969 F.2d 160, 163 n.6 (5th Cir. 1992).

12. In his original petition, Plaintiff seeks to recover the policy benefits of at least \$90,000, plus attorneys' fees, costs of court, prejudgment interest, and postjudgment interest. This is more than \$75,000 in controversy.

VENUE

13. In accordance with 28 U.S.C. §§ 1441(a) and 1446(a), venue is proper in this Court because this Court is part of the district and division embracing the place where this action is currently pending, namely, El Paso County, Texas.

TIMELINESS OF REMOVAL

14. In accordance with 28 U.S.C. § 1446(b), removal of this action is timely because Transamerica filed this notice of removal within 30 days after it was served with a copy of Plaintiff's initial pleading.

NOTICE

15. In accordance with 28 U.S.C. § 1446(d), Transamerica promptly will give written notice of the filing of this notice of removal to Plaintiff and will file a copy of the notice with the clerk of the 327th Judicial District Court of El Paso County, Texas.

EXHIBITS

16. For the sake of convenience and in accordance with the local rules, Transamerica is filing the following documents with this notice of removal: (a) a completed civil cover sheet; (b) a completed supplemental civil cover sheet; (c) a copy of the docket sheet in the state court action; (d) Plaintiff's original petition filed in the state court action; (e) Transamerica's original answer filed in the state court action; and (f) a separately signed Rule 7.1 disclosure.

RELIEF REQUESTED

For the reasons stated above, Transamerica hereby removes this action to the United States District Court for the Western District of Texas, El Paso Division.

Dated: October 25, 2021.

Respectfully submitted,

/s/ Stephen R. Clarke

Stephen R. Clarke
State Bar No. 24069517
sclarke@winstead.com

WINSTEAD PC
500 Winstead Building
2728 N. Harwood Street
Dallas, Texas 75201
(214) 745-5400 phone
(214) 745-5390 fax

**ATTORNEY FOR DEFENDANT
TRANSAMERICA LIFE INSURANCE
COMPANY**

CERTIFICATE OF SERVICE

I certify that on October 25, 2021, I served a true and correct copy of this document upon the following counsel of record via CM/ECF:

Enrique Lopez
THE LAW OFFICE OF ENRIQUE LOPEZ
701 N. St. Vine Street
El Paso, Texas 79902

/s/ Stephen R. Clarke
Stephen R. Clarke

REGISTER OF ACTIONS**CASE No. 2021DCV3447****MUNTASSER ALSPINI VS TRANSAMERICA LIFE INSURANCE COMPANY**§
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§Case Type: **Other Contract**Date Filed: **09/27/2021**Location: **327th District Court**

PARTY INFORMATION

Defendant TransAmerica Life Ins. Co.**Lead Attorneys****Plaintiff** ALSPINI, MUNTASSER**ENRIQUE LOPEZ***Retained*

915-351-0595(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS

09/27/2021 **Original Petition (OCA)** Index # 1
09/27/2021 **Case Information Sheet** Index # 2
09/27/2021 **E-File Event Original Filing**
09/28/2021 **Request** Index # 3
09/30/2021 **Citation**
TransAmerica Life Ins. Co.
10/15/2021 **Other Pleading** Index # 4

Unserved

THE STATE OF TEXAS

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org"

TO: **TRANSAMERICA LIFE INSURANCE COMPANY**, who may be served with process by serving its agent of service **CT CORPORATION SYSTEM** at **1999 Bryan Street, Ste. 900, Dallas, Texas 75201-3136** or wherever he/she may be found.

Greetings:

You are hereby commanded to appear by filing a written answer to the **Plaintiff's Original Petition** at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **327th Judicial District Court**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Petition was filed in said court on this the 27th day of September, 2021 by Attorney at Law, ENRIQUE LOPEZ, 701 N. ST VRAIN ST., EL PASO, TX 79902, in this case numbered **2021DCV3447** on the docket of said court, and styled:

**MUNTASSER ALSPINI
VS
TRANSAMERICA LIFE INSURANCE COMPANY**

The nature of Plaintiff's demand is fully shown by a true and correct copy of the **Plaintiff's Original Petition** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 30th day of September, 2021.

CLERK OF THE COURT

NORMA FAVELA BARCELEAU
District Clerk
El Paso County Courthouse
500 E. San Antonio Ave, RM 103
El Paso, Texas 79901



Attest: NORMA FAVELA BARCELEAU District Clerk
El Paso County, Texas

By: KMartinez, Deputy
Kathryn Martinez

Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."

MUNTASSER ALSPINI

Plaintiff,

v.

**TRANSAMERICA LIFE
INSURANCE COMPANY,**
Defendant.

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NO. _____

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, MUNTASSER ALSPINI, plaintiff herein, and for his cause of action would respectfully show the Court as follows:

I.

DISCOVERY CONTROL PLAN

Plaintiff intends to conduct discovery under Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

II.

PARTIES AND SERVICE

Plaintiff is a resident of El Paso County, Texas

Defendant, TRANSAMERICA LIFE INSURANCE COMPANY is a corporation duly licensed to-do business in the state of Texas and may be served by serving it agent of service, CT CORPORATION SYSTEM, 1999 Bryan Street, Ste. 900, Dallas, Texas 75201-3136.

III.

VENUE

All actions complained of herein occurred within the City of El Paso, El Paso County, Texas. Venue in this county is proper because the negligent conduct of Defendant, which proximately caused the injuries and damage of Plaintiff, occurred in this county.

IV.
FACTS

BELEHEMG. ALSPINI passed away on May 19, 2020. Plaintiff MUNTASSER ALSPINI is the surviving spouse. BELEHEMG. ALSPINI has a life insurance policy worth \$90,000.00 and upon her death the beneficiary to the policy would receive the payout amount.

BELEHEMG. ALSPINI suffered a brain injury and ultimately caused her death. On December 19, 2019, BELEHEMG. ALSPINI had fallen and hit her head and she was taken to the hospital. The brain damage is what caused her death from the fall.

V.
DAMAGES

As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff, MUNTASSER ALSPINI suffered serious financial damages.

VI.
BREACH OF CONTRACT

Plaintiff brings this action for breach of contract against TRANSAMERICA LIFE INSURANCE COMPANY, in that Plaintiff and Defendant entered into a written contract. Defendant issued a policy that contains coverage for caused by an accidental loss and it was in full effect on the date in of accident that made the basis for the claim. BELEHEMG. ALSPINI is a person insured by such coverage and while such coverage was in effect. The policy number is 74A90F9715. Plaintiff has complied with all terms of policy as condition precedent to bringing this suit. Defendant has failed to pay as required by contract and payment owed has not been tendered before the expiration of the 30th day after presentment.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff, respectfully prays that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant in the sum the jurisdictional limits of the Court together with prejudgment interest (from the date of breach through the date of judgment) at the maximum rate allowed by law; post-judgement interest at the legal rate, costs of court; and further attorney's fees under C.P.R.C. § 38.001(8) and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,
The Law Office of Enrique Lopez
701 N. St. Vrain St.
El Paso, Texas 79902
Telephone: (915) 351-0595
Facsimile: (915) 534-7207
elopezlawfirm@yahoo.com

By: /s/ Enrique Lopez

ENRIQUE LOPEZ

State Bar No.: 12563530

Attorney for Plaintiff

MUNTASSER ALSPINI,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	EL PASO COUNTY, TEXAS
	§	
TRANSAMERICA LIFE INSURANCE	§	
COMPANY,	§	
	§	
Defendant.	§	327th JUDICIAL DISTRICT
	§	

TRANSAMERICA'S ORIGINAL ANSWER

Defendant Transamerica Life Insurance Company ("Transamerica") submits this original answer to the original petition filed against it by Plaintiff Muntasser Alspini ("Plaintiff").

GENERAL DENIAL

In accordance with Texas Rule of Civil Procedure 92, Transamerica generally denies all of the claims and material facts alleged in Plaintiff's original petition (and any amendments or supplements thereto) and demands strict proof thereof in accordance with Texas law.

SPECIFIC DENIALS AND DEFENSES

Transamerica reserves the right to assert such specific denials or defenses as may become apparent during or after discovery.

REQUEST FOR RELIEF

Transamerica requests judgment against Plaintiff as follows: (a) that Plaintiff take nothing by way of his original petition; and (b) for all other relief, either at law or in equity, to which Transamerica may be entitled.

Dated: October 25, 2021.

Respectfully submitted,

/s/ Stephen R. Clarke

Stephen R. Clarke

State Bar No. 24069517

sclarke@winstead.com

WINSTEAD PC

500 Winstead Building

2728 N. Harwood Street

Dallas, Texas 75201

(214) 745-5400 phone

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**ATTORNEY FOR DEFENDANT
TRANSAMERICA LIFE INSURANCE
COMPANY**

CERTIFICATE OF SERVICE

I certify that on October 25, 2021, I served a true and correct copy of this document upon the following counsel of record via TexFile:

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